

INSURANCE CODE

TITLE 2. TEXAS DEPARTMENT OF INSURANCE

SUBTITLE B. DISCIPLINE AND ENFORCEMENT

CHAPTER 101. UNAUTHORIZED INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101.001. STATE POLICY AND PURPOSE. (a) It is a state concern that many residents of this state hold insurance policies issued by persons or insurers who are not authorized to do insurance business in this state and who are not qualified as eligible surplus lines insurers under Chapter 981. These residents face often insurmountable obstacles in asserting legal rights under the policies in foreign forums under unfamiliar laws and rules of practice.

(b) It is the policy of this state to protect residents against acts by a person or insurer who is not authorized to do insurance business in this state by:

- (1) maintaining fair and honest insurance markets;
- (2) protecting the premium tax revenues of this state;
- (3) protecting authorized persons and insurers, who are subject to strict regulation, from unfair competition by unauthorized persons and insurers; and
- (4) protecting against evasion of the insurance regulatory laws of this state.

(c) The purpose of this chapter is to subject certain insurers and persons to the jurisdiction of:

- (1) the commissioner and proceedings before the commissioner; and
- (2) the courts of this state in suits by or on behalf of the state or an insured or beneficiary under an insurance contract.

(d) It is also a concern that this state not become a safe harbor for persons or insurers engaged in the unauthorized business of insurance in this state, regardless of whether the insureds or other persons affected by the unauthorized business of insurance are residents of this state.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 671, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1419, Sec. 21, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.005, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2B.014, eff. April 1, 2009.

Sec. 101.002. DEFINITIONS. In this chapter:

(1) "Insurer" includes:

(A) a corporation, association, partnership, or individual engaged as a principal in the business of insurance;

(B) an interinsurance exchange or mutual benefit society; or

(C) an insurance exchange or syndicate.

(2) "Unfair act" means an unfair method of competition or an unfair or deceptive act or practice as defined under Chapter [541](#) or a rule adopted under that chapter.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2B.015, eff. April 1, 2009.

Sec. 101.003. INSURANCE EXCHANGES AND SYNDICATES; RULES.

The commissioner shall adopt rules defining insurance exchanges and syndicates that are insurers for purposes of Section [101.002](#).

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.004. UNCONSTITUTIONAL APPLICATION PROHIBITED; NOTICE TO COMMISSIONER. (a) Subject to Subsection (b), this chapter does not apply to an insurer or other person to whom, under the constitution or statutes of the United States or the constitution of this state, it may not apply.

(b) Before commencing operations, an insurer or other person claiming an exemption described by Subsection (a) must file with the commissioner:

(1) notice of the claim; and

(2) documents supporting the claim.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BUSINESS OF INSURANCE; EXCEPTIONS

Sec. 101.051. CONDUCT THAT CONSTITUTES THE BUSINESS OF INSURANCE. (a) In this section, "medical expense" includes surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses.

(b) The following acts in this state constitute the business of insurance in this state:

(1) making or proposing to make, as an insurer, an insurance contract;

(2) making or proposing to make, as guarantor or surety, a guaranty or suretyship contract as a vocation and not merely incidental to another legitimate business or activity of the guarantor or surety;

(3) taking or receiving an insurance application;

(4) receiving or collecting any consideration for insurance, including:

(A) a premium;

(B) a commission;

(C) a membership fee;

(D) an assessment; or

(E) dues;

(5) issuing or delivering an insurance contract to:

(A) a resident of this state; or

(B) a person authorized to do business in this state;

(6) directly or indirectly acting as an agent for or otherwise representing or assisting an insurer or person in:

(A) soliciting, negotiating, procuring, or effectuating insurance or a renewal of insurance;

(B) disseminating information relating to coverage or rates;

(C) forwarding an insurance application;

(D) delivering an insurance policy or contract;
(E) inspecting a risk;
(F) setting a rate;
(G) investigating or adjusting a claim or loss;
(H) transacting a matter after the effectuation of the contract that arises out of the contract; or

(I) representing or assisting an insurer or person in any other manner in the transaction of insurance with respect to a subject of insurance that is resident, located, or to be performed in this state;

(7) contracting to provide in this state indemnification or expense reimbursement for a medical expense by direct payment, reimbursement, or otherwise to a person domiciled in this state or for a risk located in this state, whether as an insurer, agent, administrator, trust, or funding mechanism or by another method;

(8) doing any kind of insurance business specifically recognized as constituting insurance business within the meaning of statutes relating to insurance;

(9) doing or proposing to do any insurance business that is in substance equivalent to conduct described by Subdivisions (1)-(8) in a manner designed to evade statutes relating to insurance or a claimed exception or exemption to insurance regulation; or

(10) any other transaction of business in this state by an insurer.

(c) An act described by Subsection (b) by an unlicensed or unauthorized person or insurer that occurs in this state and that affects a person in another state or jurisdiction constitutes the business of insurance in this state.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 671, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1419, Sec. 22, eff. June 1, 2003;

Acts 2001, 77th Leg., ch. 1420, Sec. 11.006, eff. Sept. 1, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. [1809](#)), Sec. 7, eff. September 1, 2021.

Sec. 101.052. ADVERTISING RELATING TO MEDICARE SUPPLEMENT BENEFIT PLANS. With respect to a Medicare supplement benefit plan authorized under Chapter 1652, the business of insurance in this state includes using, creating, publishing, mailing, or disseminating in this state an advertisement relating to an act that constitutes the business of insurance under Section 101.051 unless the advertisement is used, created, published, mailed, or disseminated on behalf of an insurer or person who:

(1) is authorized under this code to engage in the business of insurance in this state;

(2) has actual knowledge of the content of the advertisement;

(3) has authorized the advertisement to be used, created, published, mailed, or disseminated on that insurer's or person's behalf; and

(4) is clearly identified by name in the advertisement as the sponsor of the advertisement.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1419, Sec. 23, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.007, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2B.016, eff. April 1, 2009.

Sec. 101.053. APPLICATION OF SUBCHAPTER. (a) Sections 101.051 and 101.052 apply to an act whether performed by mail or otherwise. Venue for an act performed by mail is at the place where the matter transmitted by mail is delivered and takes effect.

(b) Sections 101.051 and 101.052 do not apply to:

(1) the lawful transaction of surplus lines insurance under Chapter 981;

(2) the lawful transaction of reinsurance by insurers;

(3) a transaction in this state that:

(A) involves a policy that:

(i) is lawfully solicited, written, and

delivered outside this state; and

(ii) covers, at the time the policy is issued, only subjects of insurance that are not resident, located, or expressly to be performed in this state; and

(B) takes place after the policy is issued;

(4) a transaction:

(A) that involves an insurance contract independently procured by the insured from an insurance company not authorized to do insurance business in this state through negotiations occurring entirely outside this state;

(B) that is reported; and

(C) on which premium tax, if applicable, is paid in accordance with Chapter 226;

(5) a transaction in this state that:

(A) involves group life, health, or accident insurance, other than credit insurance, and group annuities in which the master policy for the group was lawfully issued and delivered in a state in which the insurer or person was authorized to do insurance business; and

(B) is authorized by a statute of this state;

(6) an activity in this state by or on the sole behalf of a nonadmitted captive insurance company that insures solely:

(A) directors' and officers' liability insurance for the directors and officers of the company's parent and affiliated companies;

(B) the risks of the company's parent and affiliated companies; or

(C) both the individuals and entities described by Paragraphs (A) and (B);

(7) the issuance of a qualified charitable gift annuity under Chapter 102; or

(8) a lawful transaction by a servicing company of the Texas workers' compensation employers' rejected risk fund under Section 4.08, Article 5.76-2, as that article existed before its repeal.

(c) Subsection (b)(6) does not exempt an insured or insurer from the payment of an applicable tax on premium or from another

applicable provision of this code.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 411, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1419, Sec. 24,, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.008, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 9, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1274, Sec. 13, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 18.01, eff. September 28, 2011.

Sec. 101.054. EXCEPTION; FULL-TIME SALARIED EMPLOYEE. Section 101.051(b)(6) does not prohibit a full-time salaried employee of a corporate insured from acting as an insurance manager or buyer in placing insurance on behalf of:

- (1) the employee's employer; or
- (2) a parent or affiliated company of the employer.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.055. EXCEPTION; CERTAIN ENTITIES THAT REIMBURSE MEDICAL EXPENSES. (a) Section 101.051(b)(7) does not apply to:

- (1) a program otherwise authorized by law that is established:
 - (A) by a political subdivision of this state;
 - (B) by a state agency; or
 - (C) under Chapter 791, Government Code; or
- (2) a multiple employer welfare arrangement that is fully insured as defined by 29 U.S.C. Section 1144(b)(6).

(b) Notwithstanding Subsection (a)(2), the commissioner may apply a law regulating the business of insurance to a multiple employer welfare arrangement described by that subdivision to the extent that the law provides:

- (1) standards requiring the maintenance of specified levels of contributions that the plan, or a trust established under the plan, must meet to be considered able to pay benefits in full when due; and
- (2) provisions to enforce the standards described by

Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. PROHIBITION; ENFORCEMENT

Sec. 101.101. DEFINITION. In this subchapter, "person" means an individual or entity that is a person for purposes of Section 541.002.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2B.017, eff. April 1, 2009.

Sec. 101.102. UNAUTHORIZED INSURANCE PROHIBITED. (a) A person, including an insurer, may not directly or indirectly do an act that constitutes the business of insurance under this chapter except as authorized by statute.

(b) With respect to insurance of a subject that is resident, located, or to be performed in this state, this section does not prohibit an act performed outside this state, including the collection of premiums, by a person, including an insurer, authorized to do business in this state if the transaction and insurance contract otherwise comply with statute.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.103. POWERS OF COMMISSIONER; REMEDIES FOR CERTAIN CONDUCT. (a) If the commissioner has reason to believe a person, including an insurer, has violated or is threatening to violate this chapter or Chapter 226 or a rule adopted under this chapter or Chapter 226, or that a person, including an insurer, violating this chapter or Chapter 226 has engaged in or is threatening to engage in an unfair act, the commissioner may:

- (1) issue a cease and desist order;
- (2) impose an administrative penalty under Chapter 84;
- (3) direct the person to make restitution;
- (4) request the attorney general to recover a civil penalty, seek restitution, or seek injunctive relief, or any

combination of those remedies, under this chapter or another law of this state; or

(5) take any combination of those actions.

(b) This section does not limit the department to the remedies specified in this section. The department and this state may choose at any time, without regard to prior proceedings under this section, any available remedy or action to immediately stop or enjoin a person from engaging in the business of insurance without statutory authorization.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1274, Sec. 14, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 8, eff. September 1, 2021.

Sec. 101.104. REQUEST FOR INFORMATION. (a) If the commissioner or department has reason to believe that a person, including an insurer, is performing an act described by Section 101.051 or 101.052, the commissioner or department may send the person or insurer a written request for information relating to that act.

(b) A person receiving an inquiry under Subsection (a) must respond to the inquiry in writing not later than the 15th day after the day the person receives the inquiry. If the department or commissioner receives written notice from the person that additional time is required to respond to the inquiry, the department or commissioner shall grant a 10-day extension of the time to respond to the inquiry.

(c) Failure of a person or insurer to provide the information requested constitutes a violation under this chapter and may be used as evidence to support the issuance of a cease and desist order under Chapter 83. The commissioner may adopt as findings of fact allegations made by the department in a hearing under Chapter 83 if the department sought information on the allegations from the person or insurer who is the respondent in the proceeding in a request for information and the person or insurer

failed, wholly or partly, to respond to the request.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 9, eff. September 1, 2021.

Sec. 101.105. CIVIL PENALTY; RESTITUTION AND INJUNCTIVE RELIEF. (a) A person or entity, including an insurer, that violates this chapter or Chapter 226 is subject to a civil penalty of not more than \$25,000 for each act of violation and for each day of violation.

(b) The commissioner may request that the attorney general institute a civil suit in a district court in Travis County for injunctive relief to restrain a person or entity, including an insurer, from continuing a violation or threat of violation described by Section 101.103(a). On application for injunctive relief and a finding that a person or entity, including an insurer, is violating or threatening to violate this chapter or Chapter 226, the district court shall grant the injunctive relief and issue an injunction without bond.

(c) On request by the commissioner, the attorney general shall institute and conduct a civil suit in the name of the state for injunctive relief, to recover a civil penalty, for restitution, or for any combination of those remedies, as authorized under this subchapter or another law of this state.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1274, Sec. 15, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 10, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 11, eff. September 1, 2021.

Sec. 101.106. CRIMINAL PENALTY. (a) A person, including an insurer, who intentionally, knowingly, or recklessly violates Section 101.102 commits an offense.

(b) An offense under this section is a felony of the third degree.

(c) It is a defense to prosecution under this section that Section 101.051 or 101.052, as applicable, by its terms does not apply to the person charged.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 819 (S.B. 781), Sec. 1, eff. June 17, 2005.

SUBCHAPTER D. CONTESTED CASES; PRIOR PROCEEDINGS; RULES

Sec. 101.151. POWERS OF COMMISSIONER; NOTICE OF HEARING.

(a) The commissioner may set a hearing on whether to seek administrative relief under this chapter if the commissioner has reason to believe that:

(1) an insurer or person has violated or is threatening to violate this chapter or a rule adopted under this chapter; or

(2) an insurer or person acting in violation of this chapter has engaged in or is threatening to engage in an unfair act.

(b) A proceeding under this chapter is a contested case for purposes of Chapter 2001, Government Code, and applicable rules.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1419, Sec. 25, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.009, eff. Sept. 1, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 13, eff. September 1, 2021.

Sec. 101.154. ENFORCEMENT; REFERRAL TO ATTORNEY GENERAL. The commissioner may refer the matter to the attorney general for enforcement if the commissioner has reason to believe that an insurer or person has:

(1) violated an order issued under this chapter; or

(2) failed to pay an assessed penalty or restitution.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1419, Sec. 27, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.011, eff. Sept. 1, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 14, eff. September 1, 2021.

Sec. 101.155. EFFECT OF PRIOR PROCEEDINGS. The commissioner and department may proceed under this chapter or any other applicable law without regard to prior proceedings.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.156. RULES. The commissioner may adopt reasonable rules necessary to implement this chapter.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 15, eff. September 1, 2021.

SUBCHAPTER E. INSURANCE CONTRACTS WITH UNAUTHORIZED INSURERS

Sec. 101.201. VALIDITY OF INSURANCE CONTRACTS. (a) An insurance contract, agreement, or arrangement prohibited by Section 101.102, purported to be effective in this state and entered into by an unauthorized insurer or person, is unenforceable by the unauthorized insurer or person. A person who in any manner assisted directly or indirectly in the procurement, processing, administration, claims handling, adjusting, or claims payment of the contract, agreement, or arrangement is liable to the insured for the full amount of a claim or loss under the terms of the contract, agreement, or arrangement if the unauthorized insurer or person fails to pay the claim or loss.

(b) This section does not apply to insurance procured by a licensed surplus lines agent from an eligible surplus lines insurer, as defined by Chapter 981, and independently procured contracts of insurance, as described in Section 101.053(b)(4), that

are reported and on which premium tax is paid in accordance with Chapter 225 or 226 or to another arrangement expressly authorized by law.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 11.012, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1274, Sec. 16, eff. April 1, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 16, eff. September 1, 2021.

Sec. 101.202. ATTORNEY'S FEES. (a) In an action against an unauthorized insurer or unauthorized person on a contract, agreement, or arrangement of insurance issued or delivered in this state to a resident of this state or to a corporation authorized to do business in this state, the court may award to the plaintiff a reasonable attorney's fee if:

(1) the insurer or person failed, for at least 30 days after a demand made before the commencement of the action, to make payment under the terms of the contract, agreement, or arrangement; and

(2) the failure to make the payment was vexatious and without reasonable cause.

(b) An unauthorized insurer's or person's failure to defend an action described by Subsection (a) is prima facie evidence that the failure to make payment was vexatious and without reasonable cause.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1419, Sec. 28, eff. June 1, 2003; Acts 2001, 77th Leg., ch. 1420, Sec. 11.013, eff. Sept. 1, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. 1809), Sec. 17, eff. September 1, 2021.

Sec. 101.203. INVESTIGATION AND DISCLOSURE. (a) If the commissioner has reason to believe that insurance has been

effectuated by or for a person in this state with an unauthorized person or insurer, the commissioner shall in writing order the person to:

(1) produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized persons or insurers; and

(2) disclose to the commissioner:

(A) the amount of insurance;

(B) the name and address of each insurer;

(C) the gross amount of premiums paid or to be paid; and

(D) the name and address of each person assisting in the solicitation, negotiation, or effectuation of the insurance.

(b) A person who fails to comply with a written order under Subsection (a) before the 31st day after the date of the order or who wilfully makes a disclosure that is untrue, deceptive, or misleading shall forfeit:

(1) \$1,000; and

(2) an additional \$1,000 for each day the person continues to fail to comply after expiration of the 30-day period.

(c) This section does not apply to:

(1) a transaction in this state that:

(A) involves a policy that:

(i) is lawfully solicited, negotiated, written, and delivered outside this state; and

(ii) covers, at the time the policy is issued, only subjects of insurance that are not resident, located, or expressly to be performed in this state; and

(B) takes place after the policy is issued; or

(2) surplus lines insurance procured through eligible surplus lines insurers as defined by Section [981.002](#).

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2B.018, eff. April 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 60 (S.B. [1809](#)), Sec. 18, eff. September 1, 2021.

SUBCHAPTER G. REPORTING OF UNAUTHORIZED INSURANCE

Sec. 101.301. REPORTING REQUIRED. (a) A person investigating or adjusting a loss or claim on a subject of insurance in this state shall immediately report to the department an insurance policy or contract that has been entered into by an insurer that is not authorized to transact the insurance in this state.

(b) This section does not apply to:

(1) a transaction described by Section 101.053(b)(4);

or

(2) surplus lines insurance procured through eligible surplus lines insurers as defined by Section 981.002.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2B.019, eff. April 1, 2009.

SUBCHAPTER H. CERTAIN PROCEEDINGS; BOND REQUIREMENTS

Sec. 101.351. DEFINITIONS. (a) In this subchapter, "court proceeding" includes an action or suit.

(b) The definition of "state" assigned by Section 311.005, Government Code, does not apply in this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.

Sec. 101.352. APPLICABILITY. This subchapter applies only to a court or administrative proceeding against an unauthorized person or insurer in which the person or insurer was served under Section 804.107.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.

Sec. 101.353. BOND REQUIREMENT FOR COURT PROCEEDING. (a) Except as provided by Subsection (c), before an unauthorized person or insurer may file a pleading in a court proceeding to which this subchapter applies, the person or insurer must deposit cash or

securities or file a bond with good and sufficient sureties approved by the court in an amount determined by the court as sufficient to pay any final judgment that may be rendered in the proceeding.

(b) An unauthorized person or insurer must file the deposit required by this section with the clerk of the court in which the proceeding is pending.

(c) The court may issue an order waiving the deposit or bond required by this section if the unauthorized person or insurer demonstrates to the court's satisfaction that the person or insurer maintains sufficient available funds or securities in a state in the United States, in trust or otherwise, to satisfy any final judgment that may be rendered in the proceeding.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.

Sec. 101.354. BOND REQUIREMENT FOR ADMINISTRATIVE PROCEEDING. (a) Except as provided by Subsection (c), before an unauthorized person or insurer may file a pleading in an administrative proceeding of the department to which this subchapter applies, the person or insurer must, if required by statute, deposit cash or securities or file a bond with good and sufficient sureties approved by the commissioner in an amount determined by the commissioner as sufficient to pay any final order that may be entered in the proceeding.

(b) An unauthorized person or insurer must file the deposit required by this section with the chief clerk of the department.

(c) The commissioner may issue an order waiving the deposit or bond required by this section if the unauthorized person or insurer demonstrates to the commissioner's satisfaction that the person or insurer maintains sufficient available funds or securities in a state in the United States, in trust or otherwise, to satisfy any final order that may be entered in the proceeding.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.

Sec. 101.355. POSTPONEMENT. A court or the commissioner may order any postponement necessary to afford an unauthorized person or insurer a reasonable opportunity to:

(1) comply with Section [101.353](#) or [101.354](#), as appropriate; and

(2) defend that court or administrative proceeding.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.

Sec. 101.356. MOTION TO QUASH. Sections [101.353](#) and [101.354](#) do not prevent an unauthorized person or insurer from filing a motion to quash a writ or to set aside service made under Section [804.107](#) on the ground that the person or insurer has not engaged in the business of insurance as described by Section [101.051](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 29, eff. June 1, 2003.